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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

|                           |  |
|---------------------------|--|
| Proceeding                | 92049718   |
| Party                     | Defendant<br>YNK KOREA CO. LTD.  |
| Correspondence<br>Address | Jan P. Weir<br>Stradling Yocca Carlson & Rauth<br>660 Newport Center Dr., Suite 1600<br>Newport Beach, CA 92660<br>UNITED STATES<br>dhahn@sycr.com |
| Submission                | Answer   |
| Filer's Name              | Douglas Q. Hahn, Esq.  |
| Filer's e-mail            | dhahn@sycr.com   |
| Signature                 | /Douglas Q. Hahn/  |
| Date                      | 02/04/2009   |
| Attachments               | YNK Answer.pdf ( 8 pages )(594710 bytes )  |

Jan P. Weir, Esq.  
Douglas Q. Hahn, Esq.  
STRADLING YOCCA CARLSON & RAUTH  
660 Newport Center Drive, Suite 1600  
Newport Beach, CA 92660  
Telephone: (949) 725-4000  
Facsimile: (949) 725-4100

Attorneys for YNK KOREA CO. LTD.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Saul Zaentz Company d.b.a. Tolkien  
Enterprises,

Petitioner,

v.

YNK Korea Co. Ltd.,

Registrant.

) Cancellation No.: 92049718  
)  
) Marks: ROHAN  
) ROHAN & design  
)  
) Registration Nos. 3,328,132  
) 3,328,133  
)  
) Filed: February 8, 2006  
)  
) Registered (Supplemental Register):  
October 30, 2007

Interlocutory Attorney: Cheryl A. Butler

**CERTIFICATE OF DEPOSIT**

I hereby certify that this correspondence is being deposited electronically with the  
Trademark Trial and Appeal Board on the date shown below.

Dated: 2-4-09

  
\_\_\_\_\_  
Arnold Mina

## **REGISTRANT'S ANSWER TO THE PETITION FOR CANCELLATION**

YNK KOREA CO. LTD. ("Registrant"), the owner of the registrations identified in the heading of this document, in response to the Notice dated, July 28, 2008, instituting the cancellation proceeding, answers the petition as follows:

As to the first unnumbered paragraph of Petitioner's Consolidated Petition to Cancel, Registrant denies that Petitioner would be damaged by continued registration of the marks ROHAN and ROHAN & design, registered under Trademark Registration Nos. 3,328,132 and 3,328,133, respectively and denies the remaining allegations in that paragraph.

1. The registrant admits the allegations contained in paragraph 1 of the Consolidated Petition to Cancel only so far as they accurately and fully state Trademark Office records, otherwise registrant denies the allegations contained in paragraph 1.

2. The registrant admits the allegations contained in paragraph 2 of the Consolidated Petition to Cancel only so far as they accurately and fully state Trademark Office records, otherwise registrant denies the allegations contained in paragraph 2.

3. The registrant admits the allegations contained in paragraph 3 of the Consolidated Petition to Cancel only so far as they accurately and fully state Trademark Office records, otherwise registrant denies the allegations contained in paragraph 3.

4. The registrant admits the allegations contained in paragraph 4 of the Consolidated Petition to Cancel only so far as they accurately and fully state Trademark Office records, otherwise registrant denies the allegations contained in paragraph 4.

5. The registrant admits the allegations contained in paragraph 5 of the Consolidated Petition to Cancel only so far as they accurately and fully state Trademark Office records, otherwise registrant denies the allegations contained in paragraph 5.

6. The registrant admits the allegations contained in paragraph 6 of the Consolidated Petition to Cancel only so far as they accurately and fully state Trademark Office records, otherwise registrant denies the allegations contained in paragraph 6.

7. The registrant admits the allegations contained in paragraph 7 of the Consolidated Petition to Cancel only so far as they accurately and fully state Trademark Office records, otherwise registrant denies the allegations contained in paragraph 7.

8. The registrant admits the allegations contained in paragraph 8 of the Consolidated Petition to Cancel only so far as they accurately and fully state Trademark Office records, otherwise registrant denies the allegations contained in paragraph 8.

9 - 37. In response to the allegations contained in paragraphs 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 and 37 of the Consolidated Petition to Cancel, the registrant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in these paragraphs of Petitioner's Consolidated Petition to Cancel, and therefore denies the same.

38. Registrant denies the allegations contained in paragraph 38 of the Consolidated Petition to Cancel.

39. Registrant denies the allegations contained in paragraph 39 of the Consolidated Petition to Cancel.

40. Registrant denies the allegations contained in paragraph 40 of the Consolidated Petition to Cancel.

41. Registrant admits that Petitioner is the owner of Japanese Registration No. 4597129 , registered on August 23, 2003 for the mark ROHAN in Classes 9, 16, 28 and 41 and denies the remaining allegations contained in paragraph 41 of the Consolidated Petition to Cancel.

42. Registrant denies the allegations contained in paragraph 42 of the Consolidated Petition to Cancel.

43. Registrant denies the allegations contained in paragraph 43 of the Consolidated Petition to Cancel.

44. Registrant incorporates by reference its responses to paragraphs 1 through 43 of the Consolidated Petition to Cancel as if fully set forth herein.

45. Registrant admits the allegations contained in paragraph 45 of the Consolidated Petition to Cancel only so far as they accurately and fully state Trademark Office records, otherwise registrant denies the allegations contained in paragraph 45.

46. Registrant admits the allegations contained in paragraph 46 of the Consolidated Petition to Cancel only so far as they accurately and fully state Trademark Office records, otherwise registrant denies the allegations contained in paragraph 46.

47. Section 44(e) of the Lanham Act and 37 C.F.R. 2.51(c) speak for themselves. Registrant denies the remaining allegations contained in paragraph 47 of the Consolidated Petition to Cancel.

48. Registrant denies the allegations contained in paragraph 48 of the Consolidated Petition to Cancel.

49. Registrant denies the allegations contained in paragraph 49 of the Consolidated Petition to Cancel.

50. Registrant incorporates by reference its responses to paragraphs 1 through 49 of the Consolidated Petition to Cancel as if fully set forth herein.

51-52. In response to the allegations contained in paragraphs 51 and 52 of the Consolidated Petition to Cancel, the registrant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in these paragraphs of Petitioner's Consolidated Petition to Cancel, and therefore denies the same.

53. Registrant denies the allegations contained in paragraph 53 of the Consolidated Petition to Cancel.

54. Registrant denies the allegations contained in paragraph 54 of the Consolidated Petition to Cancel.

55. Registrant denies the allegations contained in paragraph 55 of the Consolidated Petition to Cancel.

56. Registrant denies the allegations contained in paragraph 56 of the Consolidated Petition to Cancel.

57. Registrant denies the allegations contained in paragraph 57 of the Consolidated Petition to Cancel.

58. Registrant incorporates by reference its responses to paragraphs 1 through 57 of the Consolidated Petition to Cancel as if fully set forth herein.

59. Registrant admits the allegations contained in paragraph 59 of the Consolidated Petition to Cancel only so far as they accurately and fully state Trademark Office records, otherwise registrant denies the allegations contained in paragraph 59.

60. Registrant denies the allegations contained in paragraph 60 of the Consolidated Petition to Cancel.

61. Registrant admits the allegations contained in paragraph 61 of the Consolidated Petition to Cancel only so far as they accurately and fully state Trademark Office records, otherwise registrant denies the allegations contained in paragraph 61.

62. Registrant denies the allegations contained in paragraph 62 of the Consolidated Petition to Cancel.

63. Registrant denies the allegations contained in paragraph 63 of the Consolidated Petition to Cancel.

64. Registrant denies the allegations contained in paragraph 64 of the Consolidated Petition to Cancel.

65. Registrant denies the allegations contained in paragraph 65 of the Consolidated Petition to Cancel.

#### **AFFIRMATIVE DEFENSES**

1. Petitioner is barred from seeking cancellation of the registration of the marks ROHAN and ROHAN & design because the Petitioner failed to state a claim upon which relief can be granted.

2. Petitioner is barred from seeking cancellation of the registration of the marks ROHAN and ROHAN & design because of Registrant's prior innocent adoption of the marks.

3. Petitioner is barred from seeking cancellation of the registration of the marks ROHAN and ROHAN & design because Petitioner does not have rights in the marks superior to those of the Registrant.

4. Petitioner is barred from seeking cancellation of the registration of the marks ROHAN and ROHAN & design because the Petitioner has no trademark rights in the marks.

5. Petitioner is barred from seeking cancellation of the registration of the marks ROHAN and ROHAN & design by the doctrines of estoppel, laches, waiver, acquiescence and unclean hands.

6. Petitioner is barred from seeking cancellation of the registration of the marks ROHAN and ROHAN & design because of Petitioner's lack of standing.

7. Petitioner is barred from seeking cancellation of the registration of the marks ROHAN and ROHAN & design because the Registrant did not make any false or untruthful statements in obtaining the registration of the marks ROHAN and ROHAN & design.

8. Petitioner is barred from seeking cancellation of the registration of the marks ROHAN and ROHAN & design because the Petitioner abandoned any purported rights that it may have had in those marks.

9. Registrant reserves the right to assert additional affirmative defenses at such time and to the extent warranted by discovery and the factual development of this case.

**RELIEF REQUESTED**

WHEREFORE, Registrant asserts that Petitioner is not entitled to any relief requested in the Petitioner's Consolidated Petition to Cancel. Registrant therefore requests that Petitioner's Consolidated Petition to Cancel be denied in its entirety and that this cancellation proceeding be dismissed accordingly.

Dated: February 4, 2009

Respectfully submitted,

  
\_\_\_\_\_  
Douglas Q. Hahn, Esq.

Jan P. Weir, Esq.

Attorneys for Registrant


STRADLING YOCCA CARLSON & RAUTH  
660 Newport Center Drive, Suite 1600  
Newport Beach, CA 92660



**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing Answer was served upon Petitioner's attorneys of record by depositing a copy thereof in the United States Mail on February 4, 2009, first-class mail, postage prepaid, in an envelope addressed as follows:

Carole F. Barrett  
Howard, Rice, Nemerovski, Canady, Falk & Rabkin  
Three Embarcadero Center, 7th Floor  
San Francisco, CA 94111

  
\_\_\_\_\_  
Arnold Mina

Date: 2-4-09